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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Dallas J. Bergh et al.

Application No.: 09/967,177

Filed: September 28, 2001

For: RELAY SOCKET WITH  
LEAKAGE CURRENT  
SUPPRESSION

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Group Art Unit: 2836

Examiner: Nguyen, Danny

Atty. Docket: ALBR:0099/YOD/EUB  
01AB099

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37 C.F.R. 1.8

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L. Lee Eubanks IV

Sir:

**REPLY BRIEF PURSUANT TO 37 C.F.R. §§ 41.31 and 41.41**

Appellants submit this Reply Brief pursuant to 37 C.F.R. §§ 41.31 and 41.41, and in response to the Examiner's Answer mailed on January 4, 2007. Appellants respectfully note that the Examiner has withdrawn the rejections of claims 21, 22, and 29-33, which generally correspond to the second and third grounds of rejection discussed in Appellants' previous Appeal Brief. *See* Examiner's Answer mailed January 4, 2007, page 2, 7; Appeal Brief filed September 26, 2006, page 6. Consequently, *the sole ground of rejection remaining for consideration by the Board is the first ground of rejection pertaining to claims 1-20, 23-28, and 34-38.* Appellants thank the Examiner for providing the Board an updated status of the claims that accurately reflects this withdrawal of the second and third grounds of rejection in the Examiner's Answer. *See* Examiner's Answer mailed January 4, 2007, page 2.

This Reply Brief is respectfully submitted to highlight the underlying deficiencies of the contentions made by the Examiner in the Examiner's Answer with respect to the White reference. In the interest of brevity, Appellants will address only those issues or arguments raised in the Examiner's Answer which are particularly noteworthy. Appellants, however, respectfully request that the Board consider Appellants' complete arguments with respect to the first ground of rejection set forth in the previously filed Appeal Brief, in addition to the following remarks.

As may be appreciated by the Board, the primary issues in this appeal are the proper construction of the claim recitations, including "leakage current leaking into the control circuit" and "input leakage current threshold," and the teachings of the prior art vis-à-vis these elements. *See* Appeal Brief filed September 26, 2006, pages 7-10. Particularly, Appellants again respectfully submit that the present recitations of "leakage current *leaking into* the control circuit" and "*input* leakage current threshold" are fundamentally different than the teachings of the White and Nevo references, which are concerned with measuring a current that is leaking *out of* a control circuit or system to ground.

Appellants respectfully note that, during patent examination, the pending claims must be given an interpretation that is both *reasonable* and *consistent with the specification*. *See In re Prater*, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969); *see also In re Morris*, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); M.P.E.P. §§ 608.01(o) and 2111. Moreover, any interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *See In re Cortright*, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); *see also* M.P.E.P. § 2111. Additionally, while limitations from the specification cannot be read into the claims, "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim is a quite different thing from 'reading limitations of the specification into a claim ....'" M.P.E.P. § 2111, *In re Prater*, 162 U.S.P.Q. at 550-51.

Appellants certainly appreciate the difficulty faced by the Examiner in interpreting the claims in view of the specification without improperly importing limitations from the specification into the claims. However, Appellants respectfully note that the Federal Circuit, sitting *en banc*, recently provided a summary and additional guidance regarding the proper interpretation of claims in view of the specification. See *Phillips v. AWH Corp.*, 75 U.S.P.Q.2d 1321 (Fed. Cir. 2005) (*en banc*). In *Phillips*, the Federal Circuit again emphasized the primacy of the specification in claim interpretation. Particularly, the *Phillips* court noted that the specification “is always highly relevant to the claim construction analysis. Usually, it is dispositive; *it is the single best guide to the meaning of a disputed term.*” *Phillips*, 75 U.S.P.Q.2d at 1327 (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)) (emphasis added). Moreover, the court also noted that:

Ultimately, the interpretation to be given a term can only be determined and confirmed with a full understanding of what the inventors actually invented and intended to envelop with the claim. The construction that stays true to the claim language *and most naturally aligns with the patent’s description of the invention* will be, in the end, the correct construction.

*Phillips*, 75 U.S.P.Q.2d at 1328-29 (quoting *Renishaw PLC v. Marposs Societa’ per Azioni*, 158 F.3d 1243, 1250 (Fed. Cir. 1998)) (emphasis added).

In the present case, however, it appears that the sole remaining rejection is based on an unreasonable claim construction by the Examiner, a fundamental mischaracterization of the prior art by the Examiner, or both. Particularly, despite the Examiner’s assertions to the contrary, once these terms are properly construed, it is evident that the cited references fail to disclose a leakage current suppression circuit configured or operable to “conduct leakage current *leaking into* the control circuit” (emphasis added), or controlling a switch in view of a comparison of a control signal to an “*input leakage current threshold*” (emphasis added). See Appeal Brief filed September 26, 2006, pages 7-10.

Appellants have repeatedly stressed that, as used in the present claims, the terms “leakage current leaking into the control circuit” and “input leakage current threshold” relate to *unintentional current* entering the control circuit. While the Examiner has not explicitly refuted such a construction, the present rejection seems to ignore the “leaking into” and “input” portions of the instant recitations. The cited prior art references use the term “leakage current” to refer to current leaking *out of* a circuit to ground, and these references cannot be reasonably considered to disclose or teach “a leakage suppression circuit configured to ... conduct leakage current *leaking into* a control circuit” (emphasis added), or controlling a switch via an “input leakage current threshold” as generally recited by the instant claims. *See, e.g., id.* at pages 9-10; White, col. 3, lines 32-39 (explicitly stating that the term “leakage current” in the White reference is used to denote current leaking out of a circuit to ground). In the Examiner’s Answer, the Examiner again asserted that the White reference teaches such elements. This assertion fails to appreciate the difference between current leaking *into* a circuit and current leaking *out of* a circuit, and cannot be sustained.

Particularly, in the Examiner’s Answer, the Examiner stated:

White does disclose a system (12 shown in figure 1) comprises a control circuit (10) which, includes a leakage current suppression circuit (resistor 125, 126, and comparator 120 of circuit 108) configured to ... conduct leakage current into the control circuit (10) to energize the relay (110) when the leakage current flows into the control circuit 10 detected (col. 3, lines 7-13, col. 6, lines 46-51, col. 7, lines 3-45).

Examiner’s Answer mailed January 4, 2007, pages 6-7 (errors in original). Appellants do not disagree that the control circuit 10 includes a voltage comparator 108 (including resistors 125 and 126, and an op-amp 120) that conducts current. In fact, the voltage comparator 108 is a component of the first signal generating assembly 32 that is connected to the electrical system 12 to receive an input signal and to detect whether the current leaking *out of the system 12 to ground* is above a first threshold value. White, col. 3, lines 56-66; *id.* at col. 6, line 65 – col. 7, line 45; Figure.

The first signal generating assembly 32 (including the elements of voltage comparator 108) is not, however, configured to “conduct leakage current leaking *into* the control circuit,” and does not compare a control signal to an “*input* leakage current threshold,” as recited by the instant claims. At best, the assembly 32 of the White reference receives an input signal indicative of a leakage current leaking *out of* the system 12, and compares this input signal to an *output* leakage current threshold to determine whether to trigger an alarm or other indicator. *See, e.g., id* at col. 3, lines 56-66; *id.* at col. 6, line 65 – col. 7, line 45. Indeed, despite his repeated assertions, the Examiner has yet to provide a *scintilla* of evidence or explanation as to why he believes that the assembly 32 conducts “leakage current leaking *into* the control circuit,” or even where he believes such current may be “leaking” into the control circuit 10 of the White reference. Instead, the Examiner has merely pointed to several passages of the reference that discuss the measuring of an output leakage current of electrical system 12 by the control circuit 10. As evidenced by the discussion above and the White reference itself, the passages of the White reference relied upon by the Examiner fail to support his assertions with respect to the alleged teaching of “leakage current leaking into the control circuit” or an “input leakage current threshold.”

In summary, the cited references fail to disclose each and every element of the instant claims, and the present fails to establish a *prima facie* case of obviousness with respect to claims 1-20, 23-28, and 34-38. Consequently, for at least the reasons provided above and in the Appeal Brief filed September 26, 2006, Appellants respectfully request that the Board overturn the instant rejection.

**Conclusion**

Based upon the above points of clarification in conjunction with the arguments made in the previously filed Appeal Brief, Appellants believe that the claims are clearly not rendered obvious by the cited art. The Examiner's rejection, therefore, cannot stand. Appellants, accordingly, respectfully request that the Board overturn the sole remaining rejection and that the present application be passed to allowance.

Respectfully submitted,

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